

STATUS OF THE CLAIMS

Claims 1, 5-11, 14-16, 19, 22-24, 31, 32, and 34-37 are pending in the present application. Claims 5, 6, 22, 31, 32, and 34-37 were previously withdrawn pursuant to a restriction requirement.

Applicant has amended independent claim 1 to include an additional claim feature. Support for the amendment to claim 1 is provided in the specification, namely, on page 4, lines 15-18 (paragraph [0012] of the published application US 2002/0082620). Applicant has amended claim 7 to provide proper antecedent basis for the term “material” and further amended in light of the amendment to claim 1, upon which it depends. Support for the amendment to claim 7 is provided on page 4, lines 15-18 of the specification and in the claims as originally filed. Applicant states that the amendments do not present an issue of new matter.

REMARKS

Rejection Under 37 U.S.C. 112, second paragraph

Claims 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner states that claim 7 recites “the material” without providing sufficient antecedent basis for this feature in the claim.

In response, Applicant has amended claim 7 to claim a “bioactive material” which has proper antecedent basis in independent claim 1. Applicant respectfully states that with this amendment, the rejection of claims 7-10 (with claims 8-10 depending upon claim 7) has been obviated.

Rejection over Mariant in view of Schwarz et al. under 35 U.S.C. §103(a)

Claims 1, 7-11, 19, and 23-24 are rejected under 35 U.S.C. §103(a) as being unpatentable in light of Mariant (U.S. Patent No. 5,624,461) in view of Schwarz et al. (U.S. Patent No. 4,414,976).

In response, Applicants respectfully traverse the rejection and its accompanying

remarks, and further states that the rejection has been rendered moot by the amendment of rejected independent claim 1, upon which the remainder of the rejected claims relies. As amended, independent claim 1 is directed to the following:

1. A vaso-occlusive composition comprising a vaso-occlusive coil; and a bioactive material ***comprising a combination of two or more materials*** selected from the group consisting of (1) fibrin; (2) polyethylene glycol derivatives; (3) thrombin-coated gelatin granules; (4) balloons coated with iron microspheres; (5) trace metals, and (6) thrombus-stabilizing molecules

The invention of the claims is not taught or suggested by the combination of the primary reference, Mariant or the secondary reference, Schwarz et al. Mariant does not teach any bioactive material and moreover, does not teach any of the specific materials listed in independent claim 1. Schwarz et al. teaches one of the claimed materials in that it teaches a “plasminogen-activator-inhibitor or plasmin-inhibitor, preferably aprotinin.” (Schwarz et al., col. 1, lines 61-62). Schwarz et al. does not teach fibrin. It does not teach a polyethylene glycol derivative. It does not teach thrombin-coated gelatin granules. It does not teach balloons coated with iron microspheres. It does not teach trace metals. As for thrombus-stabilizing molecules, it teaches a “plasminogen-activator-inhibitor or plasmin-inhibitor” as alternatives. Schwarz et al. does not teach a ***combination*** of two or more of the Markush group elements as required by independent Claim 1.

Further, independent claim 1 has been amended pursuant to a telephonic conference between the undersigned attorney and Examiner Michael J. Araj on February 17, 2010, during which the Examiner stated that pending a further art search and review, the amendment to claim 1 as proposed in this amendment appear to overcome the cited prior art. Applicants kindly request entry of the amendments. Upon entry, Applicants states that the rejection will have been overcome and requests that the Examiner issue a Notice of Allowance at the earliest opportunity.

Rejection over Mariant in view of Schwarz et al. and further in view of Eder et al. under 35 U.S.C. §103(a)

Claims 14-15 are rejected under 35 U.S.C. §103(a) as being unpatentable in light of Mariant (U.S. Patent No. 5,624,461) in view of Schwarz et al. (U.S. Patent No. 4,414,976) and further in view of Eder et al. (U.S. Pat. No. 5,980,550).

In response, Applicants respectfully traverse the rejection and its accompanying remarks, and further states that the rejection has been rendered moot by the amendment of rejected independent claim 1, upon which rejected claims 14 and 15 ultimately rely. The additional reference, Eder et al., also does not teach or suggest the missing claim feature. That is, it does not teach a bioactive material comprising a combination of two or more of the claimed materials. Rather, Eder et al. teaches “thrombolytics such as tissue plasminogen activator (TPA), streptokinase, urokinase, hirudin and growth factors...” (Eder et al., col. 6, lines 5-8), but none of the claimed materials.

Further, independent claim 1 has been amended pursuant to a telephonic conference between the undersigned attorney and Examiner Michael J. Araj on February 17, 2010, during which the Examiner stated that pending a further art search and review, the amendment to claim 1 as proposed in this amendment appear to overcome the cited prior art. Applicants kindly request entry of the amendments. Upon entry, Applicants states that the rejection will have been overcome and requests that the Examiner issue a Notice of Allowance at the earliest opportunity.

Rejection over Mariant in view of Schwarz et al. and further in view of Nikolchev et al. under 35 U.S.C. §103(a)

Claim 16 is rejected under 35 U.S.C. §103(a) as being unpatentable in light of Mariant (U.S. Patent No. 5,624,461) in view of Schwarz et al. (U.S. Patent No. 4,414,976) and further in view of Nikolchev et al. (U.S. Pat. No. 6,526,979).

In response, Applicants respectfully traverse the rejection and its accompanying remarks, and further states that the rejection has been rendered moot by the amendment of rejected independent claim 1, upon which rejected Claim 16 ultimately relies. The additional reference, Nikolchev et al., also does not teach or suggest the missing claim

feature. That is, it does not teach a bioactive material or the claimed combination of two or more of the materials of claim 1.

Further, independent claim 1 has been amended pursuant to a telephonic conference between the undersigned attorney and Examiner Michael J. Araj on February 17, 2010, during which the Examiner stated that pending a further art search and review, the amendment to claim 1 as proposed in this amendment appear to overcome the cited prior art. Applicants kindly request entry of the amendments. Upon entry, Applicants states that the rejection will have been overcome and requests that the Examiner issue a Notice of Allowance at the earliest opportunity.

CONCLUSION

In light of the foregoing remarks, applicants believe that all objections and rejections of record have been obviated, and allowance of this application is respectfully requested. If the Examiner believes there are still unresolved issues, a telephone call to the undersigned would be welcomed.

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Respectfully submitted,

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